

the claimed invention, as follows:

Species A: Figs. 1A-6B;

Species B: Figs 7A-8; and

Species C: Figs. 9A and 9B.

The Examiner did not refer to Figures 10A and 10B. According to the Examiner's breakdown of the Figures into three species, Figures 10A and 10B belong in the Species A category together with Figures 1A-6B, since Figures 10A and 10B pertain to Category I redistributors, as stated in paragraph [0069] of the application at page 15.

The Examiner stated that claims 1, 8, and 14 appear to be generic, and required Applicants to select a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is found to be allowable. Applicants agree with the Examiner that claims 1, 8 and 14 are generic, but note that claims 12 and 16 also are generic.

Applicants provisionally elect a species of the invention which the Examiner identified as Species A: Figs. 1A-6B, which also should include Figures 10A and 10B, as noted above. The claims readable thereon are species claims 2, 3, 6, 7, 9, 10, and 15, and generic claims 1, 8, 13, 14 and 16.

Applicants' provisional election of a single disclosed species is made without traverse. However, as previously indicated, Applicants' provisional election of claims 1-14 is made with traverse, and Applicants request reconsideration of that aspect of the restriction requirement for the reasons discussed below.

Applicants respectfully submit that the requirement for restriction of the present application is improper and fails to meet the requirements of 35 U.S.C. § 121 in the implementing rules and procedures issued thereunder. Moreover, there will be no serious burden on the Patent Office to examine all of the claims in Applicants' application. Claim 15, which is drawn to a cryogenic air separation process, depends from independent claim 1.

Therefore, if claim 1 is found to be allowable, claim 15 also will be allowable. Applicants' application specifically stated in paragraph [0001] that:

The apparatus and method have particular application in cryogenic air separation processes utilizing distillation, although the apparatus and method may be used in other heat and/or mass transfer processes. The present invention also relates to methods for assembling an apparatus for collecting and redistributing a flow of descending liquid to a structured packing in an exchange column used in such processes. (Emphasis added).

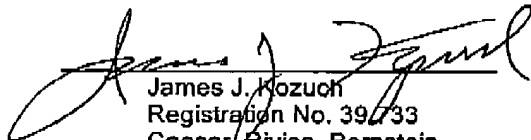
Claim 16 is drawn to a method for assembling a redistributor for collecting and redistributing a flow of a liquid descending in an exchange column. However, the claimed method for assembling in claim 16 has the same elements and limitations as the apparatus in generic claim 1. Therefore, there would be no serious burden on the Examiner to conduct a search and examination with regard to claims 15 and 16, as the subject matter in those claims is closely related to the subject matter in claim 1 and the other pending claims. Therefore, the Examiner should examine claims 15 and 16 as well as claims 1-14. See MPEP 803 ("If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.")

Accordingly, Applicants respectfully request that the requirement of restriction be withdrawn and that all of the claims of the application, claims 1-16, inclusive, be examined on the merits.

Should the Examiner believe that anything is desirable in order to place the present application in a better condition for examination and allowance, the Examiner is invited to contact Applicants' undersigned attorney.¹

¹ An Associate Power of Attorney granting the undersigned authorization to prosecute this application was filed on or about September 22, 2004.

Respectfully submitted,



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